

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Design Review Board

TO: DRB Chairperson and Members

DATE: March 05, 2019

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: DRB18-0309  
**5860 North Bay Road**

An application has been filed requesting Design Review Approval for the construction of a new two-story residence on a vacant site, including one or more waivers and a variance to exceed the maximum height for a one-story accessory structure in the rear yard.

#### **RECOMMENDATION:**

Approval of the design with conditions

Denial of the variance

#### **HISTORY:**

This item was continued at the January 02, 2019 DRB meeting and at the February 05, 2019 at the request of the applicant.

#### **LEGAL DESCRIPTION:**

Lot 25 and end of West 59<sup>th</sup> Street at Biscayne Bay of Block 1A of La Gorce Golf Subdivision According to the Plat thereof as recorded in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida.

#### **SITE DATA:**

Zoning: RS-2  
Future Land Use: RS  
Lot Size: 28,688 SF  
Lot Coverage:  
Proposed: 8,606 SF / 30%  
Maximum: 8,606 SF / 30%  
Unit size:  
Proposed: 13,188 SF / 45.4%  
Maximum: 13,344 / 50%  
**2<sup>nd</sup> Floor to 1<sup>st</sup>: 6418/6770 | 105%\***

**\*DRB WAIVER**

Height:  
Maximum: **28'-0"**  
Proposed: **28'-0" flat roof\***

#### **SURROUNDING PROPERTIES:**

East: One-story 1940 residence  
North: Two-story 1934 residence  
South: Two-story 2015 residence  
West: Biscayne Bay

Grade: +3.08' NGVD  
Base Flood Elevation: +8.00' NGVD  
Adjusted Grade: +5.54' NGVD  
30" (+2.5') Above Grade: +5.58' NGVD  
First Floor Elevation: +9.00' NGVD  
(BFE+1' FB)

**THE PROJECT:**

The applicant has submitted plans entitled "Custom Single Family Residence" as designed by **Yates + Associates Architecture Inc.**, dated November 02, 2018.

The applicant is proposing to construct a new two-story residence on a vacant waterfront parcel.

The applicant is requesting the following design waiver(s):

1. The second floor's physical volume exceeds 70% of the first floor in accordance with Section 142-105(b)(4)(c).
2. A two-story side elevation more than 60'-0" in length in accordance with Section 142-106(2)(d).

The applicant is requesting the following variance(s):

1. A variance to exceed by three feet (3'-0") the maximum allowed building height of 12'-0" for a one-story accessory building as measured from adjusted grade of 5.54' NGVD in order to construct a one-story accessory structure in the rear yard with a building height of 15'-0" .

- Variance requested from:

**Sec. 142-1132. Allowable encroachments within required yards.**

*(a) Accessory buildings. (2) In single-family districts the following regulations shall apply to accessory buildings within a required rear yard:*

*f. Height. Accessory buildings shall be limited to two stories. The maximum height above adjusted grade shall not exceed 12 feet for a one-story structure and 20 feet for a two-story structure. The allowable height exceptions of Section 142-1161 shall not apply to accessory buildings in single-family districts.*

A one-story accessory building containing an outdoor kitchen and cabana bathroom is proposed within the required rear yard of the property. The structure is 15'-0" in height, exceeding the maximum of 12'-0" allowed for a one story building as measured from adjusted grade (average between flood elevation and grade). As the property is a vacant site with more than 28,000 SF of lot area, staff cannot support the proposed variances for new construction due to the lack of hardship, lack of practical difficulties or special conditions specific to the site. In this case, staff finds that the variance request is self-imposed and directly related to the proposed design of the new single-family residence's accessory structure. Therefore, staff recommends denial of the variance.

Staff would also note that for two-story accessory buildings, the maximum height allowed is 20'-0" with an interior side setback of 10'-0" or the required side setback for the principal structure, whichever is greater. As the proposed structure complies with the height requirements of a two-story structure, except for the interior side setback, and maximum 50% second floor area ratio, staff would recommend that the structure be modified by reducing the footprint of the top parapet to a maximum 50% of the area below and comply with the required side setback of the principal structure, which would allow up to 20'-0" in height and eliminate the height variance requested.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA:**

The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts, as noted above, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also **DO NOT** indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code:

1. For two story homes with an overall lot coverage of 25% or greater, the physical volume of the second floor shall not exceed 70% of the first floor of the main home, exclusive of any enclosed required parking area and exception from this provision may be granted **through DRB approval** in accordance with the applicable design review criteria. **The applicant is requesting a 2<sup>nd</sup> Floor Volume to 1<sup>st</sup> of 105% with a 30% lot coverage which requires a waiver from the DRB.**

2. Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard:
  - a. **The additional open space shall be** regular in shape, **open to the sky from grade**, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.
  - b. The square footage of the additional open space shall not be less than one percent of the lot area. The open space provided along a side elevation in accordance with this subsection, whether required or not, shall not be included in the lot coverage calculation provided that the combined depth of the open space, as measured from the required side setback line(s), is less than 30 percent of the maximum developable building width of the property, as measured from the interior setback lines, and the total open space provided does not exceed five percent of the lot area. Any portions of the interior side yard open space in excess of five percent of the lot area shall be included in the total lot coverage calculation.
  - c. **The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and**
  - d. At least 75 percent of the required interior open space area shall be sodded or landscaped with pervious open space.
3. Pavement within the side (south) yard shall be reduced in width to not more than 44" for a walkway. Any additional paving cannot exceed 25% of the required side yard.
4. South side yard does not comply with minimum yard elevation required of 6.56' NGVD.
5. Maximum height of fences/walls is 7'-0 from CMB Grade \*3.08' NGVD not adjusted grade 5.54'
6. As presented on plans, the lot coverage calculations include areas that do not count in this requirement which result in an excess above the maximum are allowed. As discussed with the applicant, the lot coverage calculations shall be revised at the time of the building permit to comply with the maximum 30% allowed for two-story single family structures.

The above noted comments shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA:**

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Not Satisfied; the applicant is requesting one (1) variance and two (2) design waivers from the Board.**
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.  
**Not Satisfied; the applicant is requesting one (1) variance and two (2) design waivers from the Board.**
3. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.  
**Not Satisfied; the applicant is requesting one (1) variance and two (2) design waivers from the Board.**
4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.  
**Not Satisfied; the applicant is requesting one (1) variance and two (2) design waivers from the Board.**
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Not Satisfied; the applicant is requesting one (1) variance and two (2) design waivers from the Board.**
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Not Satisfied; the applicant is requesting one (1) variance and two (2) design waivers from the Board.**
7. The design and layout of the proposed site plan, as well as all new and existing buildings shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Satisfied**
8. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as

possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.

**Satisfied**

9. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.

**Not Satisfied; a lighting plan has not been submitted.**

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.

**Satisfied**

11. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Satisfied**

12. The proposed structure has an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Not Satisfied; the applicant is requesting one (1) variance and two (2) design waivers from the Board.**

13. The building has, where feasible, space in that part of the ground floor fronting a street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Satisfied**

15. An addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).

**Not Applicable**

16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.

**Satisfied**

17. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.  
**Not Applicable**
18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the City Code shall apply to the design review board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.  
**Not Applicable**
19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.  
**Not Satisfied; see below**

**COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Satisfied**  
**A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Satisfied**
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Satisfied**
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Satisfied**

- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

**Satisfied**

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

**Not Applicable**

- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

**Not Applicable**

- (10) In all new projects, water retention systems shall be provided.

**Not Satisfied**

- (11) Cool pavement materials or porous pavement materials shall be utilized.

**Not Satisfied**

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

**Not Satisfied**

#### **STAFF ANALYSIS:**

##### **DESIGN REVIEW**

The applicant is proposing to construct a new two-story residence on a vacant waterfront parcel. The proposed design seeks two variances and three design waivers as part of this application. The first floor elevation of the new residence is proposed at base flood elevation (8' NGVD) plus a minimum free board of one foot (+9' NGVD).

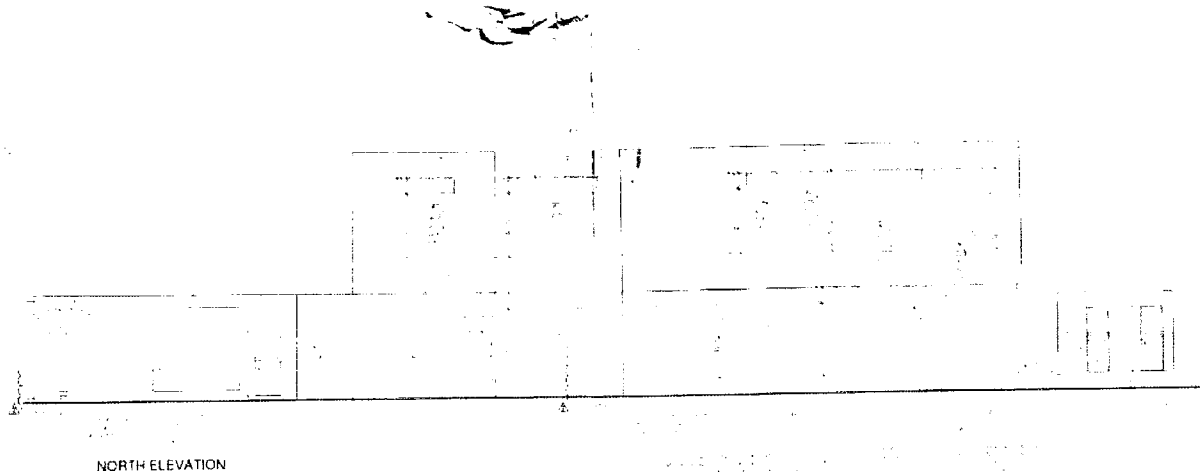
The first design waiver pertains to the second floor to first floor ratio. Per the City's Code, when the lot coverage exceeds 25%, the second floor is restricted in massing to 70% of the first floor, unless a waiver is granted by the Design Review Board. As proposed, the home has a second floor to first floor ratio of 105%. In reviewing such waiver requests, staff considers several factors that include design, lot coverage and overall building massing. The home is designed at the maximum lot coverage and coupled with a voluminous second floor massing, has an oversized proportion which is amplified by the wide exterior entry courtyard at the front of the property. While this design creates a dignified front entrance, it pushes the massing from the center of the site and the residence towards both sides which will impact neighboring properties. As such, staff does not support the requested waiver.

The applicant is also requesting two waivers of the open space requirement for two-story elevations that exceed 60'-0" in length without incorporating additional open space, for both side (north and south) elevations. The solid continuous portion of the north elevation spans 113'-6" in length and is broken up with an approximately 25'-4" wide and 9'-0" deep recess. The recess has been designed flush with the elevation of the first finished floor of the residence, or at 9' NGVD, and is configured with a passive water reflecting feature. As designed, the proposed open space does not meet the open space requirements as it is not



“100% open to the sky” from the ground up, yet is surrounded on three sides. While the resulting open space is higher than adjusted grade and is not landscaped, it does satisfy most of the regulation’s criteria and is consistent with the intent of the ordinance since the designated open space successfully breaks up the massing of the two-story elevation, and does not count towards the lot coverage of the site. Staff is supportive of the design waiver along the north side elevation and maintains the approval will not have an adverse impact on any abutting property since it directly abuts a 25’-0” unimproved right-of-way.

The solid continuous portion of the south elevation spans 74’-6” uninterrupted in length. The rectilinear massing of the house complies with the minimum 12’-10” side setback at the easternmost portion and expands westward as the diagonal south property line extends the proposed setback amount to above 20’-0”. The abutting property to the south contains a new two-story residence built in 2015. City records (building permit No. B1504644) indicate that the residence was designed with a 9’-7” setback along the north side that expands to 11’-3” with a side open space recess that complies with all of the regulations. The elevation features predominantly ribbon windows along this elevation (see below):



Neighboring property to the south (North elevation)

Staff is supportive of the design waiver along the south side elevation and maintains the approval will not have an adverse impact on any abutting property since the proposed setback of the residence expands eastward as the property line diverges from the rectilinear plan, in direct correspondence to the south neighboring property. As such, the proposed distance between the two neighboring structures will be separated by over 30’-0” along the back portion of both of the structures. Staff is supportive of the design waiver along the south side elevation.

#### **VARIANCE ANALYSIS:**

As noted in the ‘Project’ section of this report, staff is not supportive of the requested variance as it does not satisfy the Practical Difficulty and Hardship Criteria. Furthermore, by relocating the structure approximately 5’-0” toward the interior of the site to follow the main building setback and a minor reduction of the parapet, the variance request would not be necessary. Since this is new construction on a vacant lot and the variance is the result of the design of the home, staff recommends denial of the variance.

**RECOMMENDATION:**

In view of the foregoing analysis, staff recommends the application be **denied** as it pertains to the variance request, and the design, with the exception of the 70% second floor limitation, be **approved** subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review criteria and Practical Difficulty and Hardship criteria, as applicable.

TRM/JGM/IV

**DESIGN REVIEW BOARD  
City of Miami Beach, Florida**

MEETING DATE: March 05, 2019

FILE NO: DRB18-0309

PROPERTY: **5860 North Bay Road**

APPLICANT: Ambassa Holdings Inc. c/o Christian de Berdouare

LEGAL: Lot 25 and end of West 59<sup>th</sup> Street at Biscayne Bay of Block 1A of La Gorce Golf Subdivision According to the Plat thereof as recorded in Plat Book 14, Page 43, of the Public Records of Miami-Dade County, Florida.

IN RE: The Application for Design Review Approval for the construction of a new two-story residence on a vacant site, including one or more waivers and a variance to exceed the maximum height for a one-story accessory structure in the rear yard.

**ORDER**

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

**I. Design Review**

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Design Review Criteria 1, 2, 3, 4, 5, 6, 9, 12, and 19 in Section 118-251 of the Miami Beach Code.
- C. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is inconsistent with Sea Level Rise Criteria 1 and 10 in Section 133-50(a) of the Miami Beach Code.
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
  - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 5860 North Bay Road shall be submitted, at a minimum, such drawings shall incorporate the following:

- a. The proposed accessory, in its proposed location, shall be designed to comply with the maximum height of 12'-0" for one-story structures or be setback 12'-10" from the south property line.
- b. The 70% limitation for the second floor volume **shall not** be waived as proposed; the architect shall either reduce the massing of the second floor to comply with the percentage allowance or reduce the footprint to less than 25% lot coverage.
- c. All required yards shall comply with the minimum yard elevations.
- d. The (north) side open space requirement **shall** be waived as proposed.
- e. The (south) side open space requirement **shall** be waived as proposed.
- f. The final design details and color selection of the green glass window and railing finish shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- g. All pavement within the side (south) yard shall be reduced in width to not more than 44" for a walkway. Any additional paving cannot exceed 25% of the required side yard.
- h. The final design details and color selection of the agatha black granite cladding proposed finish shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- i. The final design details and color selection of the alabaster travertine stone proposed finish shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- j. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
- k. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- l. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.

2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans shall be submitted to and approved by staff. The species, type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
  - a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
  - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
  - c. Prior to any site demolition work, a tree protection fence following the City standard shall be installed for trees scheduled to remain subject to the review and approval of the City Urban Forester.
  - d. Any necessary root and tree branch pruning with a diameter at breast height (DBH) of 2" or greater shall be approved by the City Urban Forester prior to any tree work.
  - e. Any tree identified to be in good overall condition shall be retained, and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.
  - f. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
  - g. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
  - h. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department.

- i. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- j. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- k. The utilization of root barriers and Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- l. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all backflow preventors and all other related devices and fixtures. The location of backflow preventors, Siamese pipes or other related devices and fixtures, if any, and how they are screened with landscape material from the right-of-way, shall be clearly indicated on the site and landscape plans, and shall be subject to the review and approval of staff.
- m. The applicant shall verify, prior to the issuance of a Building Permit, the exact location of all applicable FPL transformers or vault rooms. The location of any exterior transformers and how they are screened with landscape material from the right-of-way shall be clearly indicated on the site and landscape plans and shall be subject to the review and approval of staff.
- n. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

**In accordance with Section 118-262, the applicant, or the city manager on behalf of the City Administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the City Commission, except that orders granting or denying a request for rehearing shall not be reviewed by the Commission.**

## **II. Variance(s)**

- A. The applicant filed an application with the Planning Department for the following variance(s):

The following variance was **denied** by the Board:

- 1. A variance to exceed by 3'-0" the maximum permitted building height of 12'-0" as measured from adjusted grade in order to build one-story accessory structure in the rear yard to construct a 15'-0" high structure.

- B. The applicant has submitted plans and documents with the application that **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also **DO NOT** indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby **Denies the requested variance(s)**, and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:

1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.
2. The proposed accessory, in its proposed location, shall be designed to comply with the maximum height of 12'-0" for one-story structures or be setback 12'-10" from the south property line.

**The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.**

**III. General Terms and Conditions applying to both 'I. Design Review Approval' and 'II. Variances' noted above.**

- A. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- B. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board, and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.
- C. During construction work, the applicant will maintain gravel at the front of the construction site within the first 15'-0" of the required front yard to mitigate disturbance of soil and mud by related personal vehicles exiting and entering the site, and with an 8'-0" high fence with a wind resistant green mesh material along the front property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- D. If applicable, a Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- E. A recycling/salvage plan shall be provided as part of the submittal for a demolition/building permit, in a manner to be reviewed and approved by staff.
- F. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- G. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
- H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.



- I. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- J. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- L. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the **application** is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans, entitled "Custom Single Family Residence" as designed by **Yates + Associates Architecture Inc.**, dated November 02, 2018, and as approved by the Design Review Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board approved plans, this approval does not mean that such handicapped access is not required. When requesting Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

Filed with the Clerk of the Design Review Board on \_\_\_\_\_ ( )